IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

WP(C).No. 23558 of 2007(D)

PETITIONER:

HUTCHISON ESSAR CELLULAR LTD.,
ASHISH BUILDING, COCHIN-31, REPRESENTED BY ITS MANAGER LEGAL, RAJESH, MELETH VEETTIL, AGED 36 YEARS, S/O RAGHAVAN MELEHVEETIL.

BY ADV. SRI.P.SATHISAN.

RESPONDENTS:
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1. **CHOKLY GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY, CHOKLI, KANNUR DIST.**
2. **MANGATTIDAM GRAMA PANCHAYATH, REP. BY ITS SECRETARY, MANGATTIDAM GRAMA PANCHAYATH P.O., NIRMALAGIRI, THALASSERY TALUK, KANNUR DIST.**
3. **PARAPANAGADY GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY, PARAPANAGADY P.O., MALAPPURAM DIST.**
4. **THIRUVALLOOR GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY, THIRUVALLOOR, MALAPPURAM DIST.**
5. **NOCHAD GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY, KAITHAKKAL, KOILANDY TALUK, KOZHIKODE DIST.**
6. **SECRETARY, LOCAL ADMINISTRATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

BY GOVT. PLEADER SRI. K.J. MOHAMMED ANZAR,
ADV. SRI.P.V.SURENDRANATH,
SRI.P.V.DIPU,
SRI.P.V.KUNHIKRISHNAN FOR R5,
SRI.SUDHEESH THAROL FOR R2,
SRI.K.T.SHYAMKUMAR FOR R3,
SRI.HARISH R. MENON,
SRI.T.SETHUMADHAVAN FOR R4,
SRI.PUSHPARAJAN KODOTH,
SRI.K.JAYESH MOHANKUMAR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE LICENSE AGREEMENT.

EXT.P.2: COPY OF THE AMENDMENT IN THE LEASE AGREEMENT DTD. 03/04/2002 ISSUED BY SANCHAR BHAVAN, NEW DELHI.

EXT.P.3: COPY OF THE APPLICATION DTD. 11/05/2006 SUBMITTED BY THE PETITIONER BEFORE THE R.1.

EXT.P4.: COPY OF THE APPLICATION DTD. 10/04/2006 SUBMITTED BY THE PETITIONER BEFORE THE R.2.

EXT.P.5: COPY OF THE APPLICATION DTD. 11/11/2006 SUBMITTED BY THE PETITIONER BEFORE THE R.3.

EXT.P.6: COPY OF THE APPLICATION DTD. 20/11/2006 SUBMITTED BY THE PETITIONER BEFORE THE R.4.

EXT.P.7: COPY OF THE APPLICATION DTD. 02/11/2006 SUBMITTED BY THE PETITIONER BEFORE THE R.5.

EXT.P.8: COPY OF THE STOP MEMO ISSUED BY THE CHOKLY GRAMA PANCHAYATH DTD. 11/05/2007.

EXT.P.9: COPY OF THE STOP MEMO ISSUED BY MANGATTIDAM GRAMA PANCHAYATH DTD. 19/05/2007.

EXT.P.10: COPY OF THE STOP MEMO ISSUED BY PARAPPANAGADY GRAMA PANCHAYATH DTD. 26/05/2007.

EXT.P.11: COPY OF THE STOP MEMO ISSUED BY THIRUVALLOOR GRAMA PANCHAYATH DTD. 26/04/2007.

EXT.P.12: COPY OF THE STOP MEMO ISSUED BY NOCHAD GRAMA PANCHAYATH DTD. 19/06/2007.

RESPONDENT'S EXHIBIT:

EXT.R2.1: COPY OF THE LETTER NO. C1-28759/06 DTD. 30/08/06 ISSUED BY THE PANCHAYATH DIRECTOR, THIRUVANANTHAPURAM.

//TRUE COPY//

prv.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 23558 OF 2007

Dated this the 29th day of October, 2007

JUDGMENT

The grievance of the petitioner company who are providers of mobile telephone services is that the application submitted by them before respondents 1 to 5 Panchayats were rejected by the Panchayats by passing Exts.P8 to P12 orders mainly on the ground that energisation of the towers will injuriously affect the health of the public. It appears that the attention of the Panchayats was not drawn to the judgment of a Division Bench of this Court in **Reliance Infocom Ltd., v. Chemanchery Grama Panchayat** [2006(4) KLT 695], while passing Exts.P8 to P12.

I quash Exts.P8 to P12 and direct the concerned Panchayats to pass fresh orders after hearing the petitioner and also a representative of the persons who filed complaints before the Panchayat against the proposal to establish towers. Fresh orders as directed above will be passed by the concerned Panchayats at the earliest and at any rate within six weeks of receiving copy of this judgment. Copy of the Division Bench judgment in **Reliance**(supra) case will also be produced along with a copy of this judgment before the concerned Panchayats. It is open to the parties who are being permitted hearing opportunity under

this judgment to cite other judicial precedents and other materials, if any, in support of their rival positions.

PIUS C. KURIAKOSE, JUDGE

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